

EXHIBIT C

RONALD KELEMAN

July 17, 2008

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RONALD KELEMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

-----X

COPART,

Plaintiff,

-against- Case No. C072684 CW

CRUM & FORSTER INDEMNITY
COMPANY, UNITED STATES FIRE
INSURANCE COMPANY, and DOES
1-10,

Defendants.

-----X

AND RELATED COUNTER CLAIMS

-----X

DEPOSITION OF RONALD KELEMAN

New York, New York

Thursday, July 17, 2008

REPORTED BY: BARBARA R. ZELTMAN
Professional Stenographic Reporter

Job Number: 410523

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2 Q And the credits that you are
3 referring to, was that something required by
4 the industry or by Crum & Forster?

5 A Well, it's actually by the industry,
6 by State and then Crum & Forster.

7 Q During your time with Crum &
8 Forster, one of the things that you were able
9 to do would be to cut and paste e-mails that
10 came in on the Lotus Notes program into the
11 electronic claims file; is that right?

12 MS. MILLIKAN: Objection. Lacks
13 foundation.

14 But you can answer the question.

15 A If I recall, yes, you could.

16 Q Is that one of the things that you
17 actually did during your time at Crum &
18 Forster?

19 A Yes, I did.

20 Q When you did that, would you make
21 sure to be as accurate and thorough as
22 possible when cutting and pasting?

23 A Yes.

24 Q And did you train the folks that
25 worked with you or tell the folks with you

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2 that they should do the same?

3 A Yes, I did.

4 Q And the purpose of that would be to
5 be able to have an accurate and truthful
6 record in the electronic claims file?

7 A Correct.

8 Q We talked about your time at AIG
9 having general adjusters.

10 Did you also have general
11 adjusters at Crum & Forster?

12 A We had one.

13 Q And who was that during your time
14 that you were there?

15 A Ed Frank.

16 Q And do you recall the Hurricane
17 Wilma event during your time at Crum &
18 Forster?

19 A Sure do. Definitely.

20 Q Do you recall an insurer named
21 Copart making claims under its property
22 policy for Hurricane Wilma damages?

23 A Correct.

24 Q You do recall that?

25 A Yes, I do.

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2 Q Do you recall looking at this
3 statement of values in your review of this
4 claim?

5 A I would I have to say I probably
6 did.

7 Q But sitting here today, you don't
8 know one way or the other?

9 A No, I don't.

10 Q Do you recall ever looking at,
11 either electronically or in another file
12 somewhere, any other version of a schedule of
13 values that would have related to the Copart
14 Wilma claims?

15 A I don't recall.

16 Q It's accurate to say that you would
17 rely on your senior claims handler personnel
18 to make sure to pull the right policy and
19 right SOV when handling a claim, right?

20 A Yes.

21 Q So that when you looked at a claim
22 file or audited a claim file, you had some
23 level of comfort that you were looking at the
24 right policy and right SOV?

25 A Correct. Right.

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2 Q But that didn't happen here, right?

3 A With regards to?

4 Q The right policy and the right SOV.

5 A Correct.

6 Q Do you recall talking to anybody
7 else, Mr. McCarthy, Mr. Kush, when it was
8 discovered at some point in time that the
9 wrong policy and wrong SOV lived in the claim
10 file?

11 A Most likely if this occurred, it
12 would go on to Mr. Dennis McCarthy. And I
13 think, if I'm not mistaken, it would be they
14 had conversation, there was something with
15 Carlton and it probably did go on to Dennis
16 for review.

17 Q Do you know what action Mr. McCarthy
18 took, if any?

19 A No, I don't.

20 Q Do you recall actually talking about
21 the issue with Mr. McCarthy?

22 A No, I don't.

23 Q Do you recall actually talking about
24 the issue with Mr. Clarke?

25 A You know, at that time, there was

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2 the outside that's not insurance, we have an
3 understanding what's happening with the case,
4 with the file.

5 Q Do you recall giving any kind of
6 specific instructions with how or when to cut
7 and paste e-mails?

8 A No, never.

9 Q Was there a working presumption that
10 e-mails relative to a claim should be put
11 into the electronic claim file?

12 A Excuse me? Could you repeat that.

13 Q Sure.

14 Was there a working presumption
15 that e-mails relative to a claim should
16 be put into the electronic claim file?

17 A I put all my notes in the file. So
18 I told everybody to put everything in the
19 file that they write.

20 Q And you would never alter anyone
21 else's entry?

22 A Never.

23 Q And you would expect none of the
24 claims handlers would do that, either?

25 A Correct.

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2 Q Are you aware that the text of at
3 least one e-mail in this case was actually
4 altered in the electronic claim file?

5 A No. I did not know that.

6 Q Let's look at Claim 8.

7 A You said Claim 8?

8 Q Claim 8.

9 And I'm going to show you an
10 e-mail.

11 MS. PURI: This is Bates
12 USFIC1040.

13 (Keleman Exhibit 124, E-mail,
14 USFIC-1040, was marked for
15 Identification.)

16 Q I'm going to hand you a e-mail from
17 Mr. Petrillo to Mr. Clarke. In this e-mail
18 it says, "Good morning. Yes, I heard from
19 the chief financial officer of the insured
20 who claims he has a \$3 million loss. And
21 then I heard from our field adjuster who
22 thinks the insured is crazy. In any event,
23 I'm expecting a report from my field guy
24 shortly. Carl."

25 Then if you take a look at

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2 Claim 8, bottom half of the page,
3 appears to be a cut and paste by
4 Mr. Petrillo of this e-mail, correct?

5 A Correct.

6 Q Except that there are words missing
7 and words changed, right?

8 A Correct.

9 Q You would never approve of
10 sanitizing a claim file in this matter, would
11 you?

12 A Never.

13 Q You didn't know that this had
14 happened before today, right?

15 A Correct.

16 Q Why wouldn't you approve of
17 sanitizing a claim file like this?

18 A It's just you say the facts. What
19 it is, you state it. That's how it goes into
20 the file.

21 Q Because the truth is the truth.

22 MS. MILLIKAN: There's no answer
23 to that question on the record. The
24 question wasn't a question, so ...

25 MS. PURI: It wasn't a question,

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2 taken.)

3 THE VIDEOGRAPHER: We're back on
4 record. Time is 11:34 a.m. This is
5 going to be the start of Tape Number 2.

6 Q Mr. Keleman, you would agree with me
7 that sanitizing a claims files is a dishonest
8 thing to do?

9 A Yes.

10 Q And you agree with me that
11 sanitizing claims files is unfair to do?

12 A Yes.

13 Q It's unfair to the insured, right?

14 A Yes.

15 Q We just spoke briefly off the
16 record.

17 It's accurate to say that you
18 were leaving the company as the final
19 claims decision was being made on
20 Copart's Wilma claims, right?

21 A Correct.

22 Q So that you were not intimately
23 involved in the final decision to deny
24 the the Yard 105 claim, right?

25 A Correct.

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2 Q So in that event, adjusting the
3 Yard 105 claim really had nothing to do with
4 the overload of work based on the hurricane
5 catastrophes?

6 MS. MILLIKAN: Same objections.

7 A Again, I'm only going on the facts
8 we're speaking of. I think Carlton tried to
9 expedite the claim with the information he
10 had at that point because of the prior claim.
11 So with regard to that, I don't think it's
12 something that was -- you know.

13 Q Right. And Mr. Clarke could have
14 expedited the Yard 105 claim by simply
15 getting the right SOV, right?

16 A Correct.

17 Q That wasn't something that should
18 have taken a year, right?

19 A Again, under the circumstances, no,
20 it shouldn't have taken a year. But again.
21 People were working 6 days a week, 12 hours a
22 day, and limited information coming back to
23 us from the outside vendors.

24 Q But the information from the vendors
25 had nothing to do with what existed on the

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2 right SOV, right?

3 A Correct.

4 MS. MILLIKAN: Objection.

5 Argumentative. Calls for speculation.

6 Mr. Keleman, may I remind you to
7 wait for a moment before you answer the
8 questions, please.

9 Can we straighten out the record
10 with a question and an objection and an
11 answer.

12 MS. PURI: We have the question
13 and objection. You want the answer?

14 MS. MILLIKAN: He answered it as
15 well. That's why I'm not clear whether
16 the record reflects a question,
17 objection and answer.

18 MS. PURI: That's a good point.
19 It doesn't.

20 Did you get his answer?

21 It was a yes, but I don't know if
22 it --

23 MS. MILLIKAN: I thought it was a
24 no.

25 MS. PURI: Here we go.